

RAYMOND C. CABALLERO
MAYOR



CITY COUNCIL

JAN SUMRALL
DISTRICT NO. 1

ROSE RODRIGUEZ
DISTRICT NO. 2

LARRY M. MEDINA
DISTRICT NO. 3

JOHN COOK
DISTRICT NO. 4

DANIEL S. POWER
DISTRICT NO. 5

PAUL J. ESCOBAR
DISTRICT NO. 6

LUIS G. SARIÑANA
DISTRICT NO. 7

ANTHONY COBOS
DISTRICT NO. 8

LEGISLATIVE REVIEW COMMITTEE OF THE WHOLE
COUNCIL CHAMBERS
OCTOBER 28, 2002
10:30 A.M.

The City Council met in special session at the above place and date at 10:45 a.m., Mayor Pro Tem Larry M. Medina present and presiding and the following Council Members answered roll call: Rose Rodriguez, John F. Cook, Daniel S. Power and Luis G. Sariñana. Absent: Jan Sumrall, Paul J. Escobar and Anthony Cobos.

AGENDA

1. Discussion and action on the City's Legislative Agenda.
2. Discussion and action on the Charter Amendments.

Ms. Diana Nunez, Deputy City Clerk, opened the meeting.

Representative Sariñana explained that the City would be submitting its legislative agenda to the State of Texas delegation.

Ms. Rita Rodriguez, City Attorney, clarified that in the past she had requested that the City Department Heads provide requests for legislative programs in addition to the requests made by City Council Members. She provided a copy of this year's City Department Heads requests to Council Members and explained that during the legislative session, the City's lobbyists would lobby for a bill in which the City had an interest. She noted that in the last legislative session, 5,700 bills were introduced and of those, more or less, 1,600 passed. She stated that of those 5,700 bills introduced last legislative session, 1,200 were City related issues. She explained that of the 1,200, 150 actually passed. She noted that in order to pass bills related to City issues, many cities need to rally behind the issue; on the other hand, there are lobbyist groups that were against City related issues.

Representative Sariñana explained that he had requested, as part of this year's legislative agenda, utilizing the Sun Bowl rental tax to assist with the Convention and Visitor's Bureau. He explained that this item was not a bill, but an amendment to change the language already in existence.

Ms. Rodriguez explained that the quorum was lost, as Representative Rodriguez had left the room.

Representative Rodriguez returned and the meeting continued.

Representative Sariñana remarked that the Sun Bowl rental tax issue would not affect other cities and hoped that the delegation supports the issue.

Ms. Rodriguez responded that issues are assigned to committees in both the House and the Senate, depending upon whether the issue was set for hearing or allowed to continue through the process, and if not, that is where the bill would die. She noted that passage of the bills would depend upon the committee's priorities of other bills.

Mr. Charlie McNabb, Chief Administrative Officer, explained that the legislature would consider the Sun Bowl rental tax locally oriented and would not pass unless all local delegations of the community support it. He clarified that bills should be approved by the local delegations so that passage of the bill may be accomplished.

Representative Sariñana mentioned that a Parks Legislative Review Committee meeting was held on Friday, October 18, 2002, and requested that language be added to an existing Bill or another request be added to the agenda whereby the City of El Paso would be allowed to post significant signage regarding utilizing the Parks safely.

Ms. Rodriguez responded she would oblige Representative Sariñana request; however, she explained that the Tort Claims Act, which states that cities were liable under Parks, the monetary limits were \$250,000.00 to \$500,000.00, dependent upon the number of petitioners. She stated that the Texas Trial Lawyers and the American Trial Lawyers were requesting that the monetary limits be increased which causes an uphill battle for the City. She summarized, stating that the likelihood of the amendment passing was very small. She noted that the skateboard parks were exempt due to an aggressive push for passage of the Bill by members of the skateboard community and cities. She did note that the trial lawyers had tried, unsuccessfully, to see the bill die and added the City of El Paso would be held liable however, minimally.

Representative Sariñana questioned whether the Parks signage language might "piggyback" on the skateboard park bill.

Ms. Rodriguez responded that the Skateboard Park issue had become law; therefore, in order to proceed with Representative Sariñana's suggestion, an individual would need to initiate a bill amending the Texas Tort Claims Act, to limit further any liability regarding parks.

Representative Power stated that he was not aware the City Attorney's office had composed a list of recommendations provided by Department Heads and City Council Members. In his request to create a Legislative Review Committee on the City's Legislative Agenda, his goal was to consolidate the opinions of City Council Members, business community members, and community members, etc. He thought that it would be more productive to hold the Legislative Review Committee on the City's State Legislative agenda rather than Meetings of the Whole. He felt that the Legislative Review Committee meetings would allow for more input from City Council Members to discuss their individual strategic plans, in addition to the City's Administration directive. He asked that the members of the committee today consider the creation of a State Legislative Agenda Legislative Review Committee.

Ms. Rodriguez responded that cities with established Intergovernmental Relations offices that solely deal with legislative matters have established committees composed of not only Council Members but City staff as well. She stated that those cities, having the luxury of these committees that work exclusively on legislative issues, make recommendations to their respective City Council members. She reiterated that the list provided to Council Members today was the "Department Heads' wish list".

Representative Power noted that the City was moving forward to hire an Intergovernmental Relations individual and questioned whether one responsibility of the position would include forming a consensus and holding committee meetings or creating the State Legislative Agenda Legislative Review Committee to assist the position in fulfilling that responsibility.

Ms. Rodriguez responded that the creation of the State Legislative Agenda Legislative Review Committee would help facilitate the individual holding the position of Intergovernmental Relations in their efforts.

Representative Power moved to establish a State Legislative Agenda Legislative Review Committee. There was no second at this time.

Representative Medina added that the City of El Paso belonged to the Texas Municipal League and explained he had received correspondence from the League regarding legislation supported by, opposed by and what would be aggressively sought after. He questioned which members of Council had attended the meeting held by the Texas Municipal League, to which Representative Sariñana responded he had attended only one meeting. Representative Medina suggested Council Members designate one or two representatives to attend the Texas Municipal League meetings, rather than creating the State Legislative Agenda Legislative Review Committee. He suggested appointing volunteer(s) due to the extensive traveling required to represent our City. He mentioned that one of the perks of the appointment would be the opportunity to run for State and National office within the National League of Cities.

Mr. McNabb clarified that the last office held by an individual, from El Paso, within the National League of Cities, was then Mayor Suzanne Azar who held the office of President-Elect; however, she was defeated in the re-election and could not fulfill her President-Elect status. He added that since that time, he had been a Board Member of the Texas Municipal League and stated that the Mayor of the City was automatically a member. He announced that Ms. Rita Rodriguez, City Attorney, had been personally invited to be a member of the TML Resolution Committee which cities submit their Resolution to said committee, hopeful the TML would support their Resolutions. He declared that the City of El Paso has never asked the TML to support legislation. He explained that smaller cities do not have the luxury of lobbyists to represent them in Austin. Luckily El Paso has the ability to purpose legislation, hire lobbyists; however, it would be beneficial to have the support of the TML. He offered his and Ms. Rodriguez' services to review the list of requests provided by the City Department Heads to assist in deciphering whether the TML would support these requests.

Representative Power commented that it would not be the consensus of Council Members to initiate a State Legislative Agenda Legislative Review Committee but added that as part of the duties of the Intergovernmental Relations position, the individual would be required to take note of each Council Members' suggestions for and priorities of the City's Legislative agenda. He withdrew his Motion to establish a State Legislative Agenda Legislative Review Committee.

Representative Medina expressed that each Council Member should take a more aggressive approach toward bringing the City's needs to the State level. He reiterated that by aggressive participation in the Texas Municipal League, the City of El Paso might experience progressive movement and questioned what other organization might be utilized.

Representative Cook noted that the City would be more effective in utilizing the Chamber of Commerce as the organization has composed a Legislative agenda currently, in addition to existing subcommittees such as education, public safety, health, etc. He suggested working closely with the Chamber of Commerce.

Mr. McNabb reminded Council Members that the City currently works through the Community Legislative Agenda; however, that agenda may not contain issues unique to the City. He proposed that Council Members select issues within the packets that were important to them as the same issues would be brought before Council Members to be approved at a future City Council meeting and subsequently brought forward to the City delegation and/or City lobbyists for passage. He asked that Council Members genuinely listen to the advice of the City Attorney, CAO and other professionals to prevent hindering the passage of the issue(s). He agreed that Council Members should be more actively involved in directing City staff regarding issues that are of importance to them.

Representative Cook questioned Mr. McNabb whether the issue of deposits for returned cans and bottles would be an issue worth moving forward on.

Ms. Rodriguez explained that for the last three legislative sessions, numerous bills have been brought forward but had not been passed. She added that the lobbyists had lobbied in support of the issue; however, again, it had not passed as of yet.

Mr. McNabb explained he had attempted, on several occasions, to have legislation passed regarding the consolidation of City/County Departments. However, in the end, the bill died and as one powerful Senator stated to Mr. McNabb, it would not be approved. He explained that the emphasis on having community consensus was vital to the passage of legislation. He recommended a buy off from our delegation pertaining to local issues; however, on Statewide issues the backing of the Texas Municipal League would be most beneficial. He mentioned that Ms. Rita Rodriguez was a part of the "Big Eight" cities of which their in-house lobbyists assist El Paso in the hopes of passing issues.

Representative Medina questioned whether City staff members might be considered as members of the Texas Municipal League.

Mr. McNabb responded that the "City" was a member of TML which is governed by a Board of Directors. He explained that the City staff members might be members of the Board of Directors if they represent a group. He mentioned that he was a member of the Board of Directors for many years as a representative of the City Attorney's Association. He mentioned that the last sitting member of the Board of Directors was Mr. David Harned, Public Works Director, and noted that as the Mayor of one of the five largest Texas cities, he always has a seat. He indicated that there were other means by which an individual would be able to become a representative of the City such as the delegation of Black Council Members and the Mexican-American Council Members. He stated that in order to become a member of the National League of Cities, the individual would need the endorsement of the Texas Municipal League.

Representative Sariñana agreed with Representative Cook's suggestion to work more closely with the local Chambers of Commerce.

Representative Medina suggested that Council Members appoint a Council Member to become involved in the Texas Municipal League, local Chambers of Commerce and City staff.

Mr. McNabb remarked that the Texas Municipal League holds one large annual meeting; however, the regional components, as well as those recognized subgroups with established Board positions, hold frequent meetings.

Representative Power opined that the City would hire a pro-active Intergovernmental Relations Officer who would investigate all aspects of the City's issues and aggressively move the City forward.

Representative Medina questioned when the hiring of the Intergovernmental Relations Officer would take place.

Ms. Rodriguez responded that the job description had just been composed and possibly would be filled through the contract process hopefully prior to January 1, 2003. She reiterated that the individual must be knowledgeable of both the Legislative processes and the City's needs.

Mr. McNabb added that once the position had been filled, the individual would develop an expertise regarding the processes of State matters.

Representative Rodriguez suggested that the Legislative Agenda discussions be held prior to next year's City budget hearing presentations so that Council Members might hear the City Department Heads' recommendations on issues important to them. She added that a "point person" could be selected at the Legislative Agenda meeting.

Representative Sariñana asked if that the information presented by Ms. Rodriguez, City Attorney, would be presented to the City's legislatures.

Ms. Rodriguez responded no, the information provided was a "wish list" from City Department Heads and Council Members. She recommended narrowing the list to more realistic issues and then made comments regarding the Police Department's recommendation that cities reimburse each other when officers move from one district to another. She stated that the Bill may not pass as the cities and/or Police Chief's Association had not previously agreed to the reimbursements. Ms. Rodriguez voiced she would reduce the "wish list" and place an item on a future City Council Agenda addressing her recommendations. She added that at that Council meeting, Council Members could make changes as needed.

Representative Sariñana requested that items 15, 16 and 17 be revised as per the City Attorney's recommendations and requested item 18 be deleted. He asked that the language regarding the Parks liability be addressed during this year's Legislative agenda. He discussed the confiscation of license plates for those individuals not having insurance; however, in his opinion, loopholes existed and the issue would need further review. He called attention to the issue addressing "lateral transfer of Police officers from one City to another without the need of attending additional training".

Ms. Rodriguez noted that the language was not a legislative issue but individual cities expressed concerns regarding the differing methods of training. She pointed out that this was a liability issue and in order to address that issue, officers had to be retrained. She reported that other cities might have different standards regarding use of force or the handling of domestic violence situations.

Mr. McNabb interjected that the City spends millions of dollars in training our officers who subsequently become members of the Dallas, Tucson and Phoenix police forces. He added that the City raised Police officers' salaries to be competitive to other Southwest cities and explained that in the event officers from other cities would be interested in coming to El Paso, they would be provided an abbreviated training to those issues unique in El Paso. Moreover, Police Chief Carlos Leon had made a commitment to attempt to hire lateral transfers this year, in addition to working with the El Paso Community College to subsidize the Police Academy training.

.....

Representative Medina introduced the second issue on the agenda today as that of the City Charter Amendment and asked for Council Members' input.

Representative Power recommended the following amendments to the existing City Charter:

1. the possibility of a Charter Amendment election in February, 2003;

Representative Sariñana requested a copy of the Mayor's proposed amendments.

Mr. McNabb responded that the Mayor's proposals had not been reduced to writing, as of yet; however, he would briefly explain the Mayor's proposals. He noted that the Mayor had requested City staff investigate the issue of increasing the terms served on Council to four years and stagger the terms. He noted that accreditation agencies have expressed concerns regarding the City's lack of continuity regarding Council Members' holding office. Similarly, the Mayor had requested City staff investigate the possibility of raising salaries for Council Members and Mayor; however, the language would be specific not to include incumbents. Additionally, the Mayor had requested changes be made to the Civil Service Rules and Regulations and commented on the recent reclassification study regarding City personnel. He mentioned the possibility existed whereas some City departments such as Economic Development, Engineering, Libraries, Information Technology, might utilize "unclassified services" positions to allow more flexibility with salary schedules and the ability to attract and maintain the engineers, librarians and computer operator positions.

Representative Power proposed, in addition to the suggestions made by Mr. McNabb, that the voters be allowed to decide whether the City should utilize the City Manager form of government. He asked that the City Council Members' salaries be comparable to that of the Secretary III positions; however, he was opposed to increasing the terms of Mayor and Council Members.

Representative Medina explained that Council Members should consider the future and questioned what the proposed term limits might be.

Representative Cook interjected and added that he proposed four-year term limits, staggered by lottery for Council Members and agreed that the City should consider a City Manager form of government. He commented on the possibility of Council Members' pay to be comparable to that of the Secretary III positions with the exception being the Mayor's pay to be twice the amount of the Council Members' salaries.

Mr. McNabb mentioned that a previous Committee had recommended the Mayor and Council Members' salaries be similar to the median income of a family of four, \$34,000.00, (the dollar amount supplied by Housing and Urban Development) with the exception of the Mayor's salary to be a multiplier of that.

Representative Cook responded that due to public perception, the voters did not approve raising the salaries of the Mayor and Council Members during the last City Charter amendment election. He emphasized that the issue regarding salary raises for Mayor and Council Members was the only item not approved by the voters.

Mr. McNabb thought that the public might perceive that the secretaries' salaries would be raised as well.

Representative Sariñana brought up the issue regarding Council Members serving unexpired terms and proposed that in the event a Council Member serves an unexpired term, that same Council Member be allowed to serve four (4) consecutive terms.

Mr. McNabb reiterated that the current City Charter does not relate to term limits in the number of terms; however, states the term limits in number of years. He noted that the current City Charter states no Council Member may serve more than eight (8) consecutive years. He explained that the current language may be revised to state something such as "eight consecutive years except if the first term was less than a full term".

Representative Sariñana noted that he would not be running for re-election for Council Member in District 7; however, he noted that he had served an unexpired term when Mr. "Nacho" Padilla stepped down to run for another office. In his opinion, the issue should be presented to the voters and not in a court of law.

Mr. McNabb responded City staff would write the proposed Charter amendments; however, noted the change to City Manager would be a more difficult undertaking, as this would involve changing the current structure.

Representative Power questioned whether Council Members should hold a Meeting of the Whole or Legal Legislative Review Committee.

Mr. McNabb noted that copies of Charters following City Manager forms of government such as Dallas or San Antonio would be provided to Council Members.

Representative Power noted that his constituents had discussed issues such as oversight, responsibilities, term lengths and contract of a City Manager with him and understood that remedies would be slow in coming. He questioned the time frame to handle these proposals prior to a February election.

Ms. Rodriguez responded that the issues must be resolved by the first week in December, as the Department of Justice would need to be notified in a timely manner. She explained that City staff could compose variations of the proposals from which Council Members could either accept or deny.

Representative Power asked Council Members whether to hold a Legal Legislative Review meeting or some other type of venue to discuss these issues.

Representative Medina recommended holding a Legislative Review Committee of the Whole.

Ms. Rodriguez remarked she would forward examples of City Charters from Dallas, Austin, San Antonio and Corpus Christi that utilize City Manager forms of government and requested Council Members hold another meeting from which decisions would be made.

Representative Sariñana noted that the City of Houston previously utilized a City Manager form of government; however, have since reversed that decision to strong Mayor form of government. He questioned how Houston was able to accomplish that.

Ms. Rodriguez responded that the City of Houston held an election and added that Dallas, San Antonio and Corpus Christi were in the process of Charter Amendment elections to revert back to strong Mayor forms of government.

Representative Rodriguez stated that regarding term limits, the simplest method would be to remove the word "consecutive" from the current City Charter language so that it would read "eight years".

Mr. McNabb suggested the Legal Department draft language pertaining to Representative Rodriguez's suggestion regarding removal of the word "consecutive". He added that by removing the word "consecutive" the definition would change to, for example, eight years total throughout an individual's lifetime.

Representative Medina questioned whether state law or statute existed whereas Council Members must follow the election process or could an individual be appointed to fulfill an unexpired term.

Mr. McNabb offered his legal opinion and stated the Texas Constitution states in a City where terms exceed two terms of its elected officials, appointments cannot be made filling a vacant Council seat, an election must be held within 120 days. He added that El Paso's Municipal Judges were elected to four-year terms.

Representative Medina suggested changing the Municipal Judges' structure.

Mr. McNabb responded that El Paso was the only major city in Texas having elected Municipal Judges; all other major cities have judges appointed by the City Council.

Representative Medina commented that El Paso's Municipal Judges do not work full time but only a few hours a week at a cost of \$35,000.00 or \$100.00 an hour.

Ms. Richarda Duffy Momsen, Municipal Clerk, agreed that El Paso was the only major Texas city having elected Municipal Court Judges. She explained that these six judges, five regular and one appellate, do not work a conventional 40 hour week; however, the two appointed judges, the night magistrate and the judge assigned to arraignment proceedings, work 40 hour weeks.

Representative Medina reiterated that the Municipal Judge structure should be reviewed and changed.

Ms. Rodriguez noted that Representative Medina's suggestion to change the Municipal Judge structure would require State Legislative change as the issue was governed under state statute. She noted that this suggestion could go forward as a change in El Paso's state statute regarding the appointment of Municipal Judges, in addition to making changes to the City Charter.

Ms. Momsen interjected that the language regarding the Municipal Judges could be found in the El Paso Court of Records Act.

Mr. McNabb explained that four years ago, the State rewrote the Municipal Court Acts that was then incorporated as State law. He noted that El Paso could change its Charter but would also need to make the same change in the State law.

Representative Medina expressed his concern regarding the lack of hours worked by the Municipal Judges, in addition to utilizing the position for higher gain.

Mr. McNabb added that during the budget hearing process this year, the City added one full-time appointed Associate Judge; however, the position was not currently filled. He remarked that the City may change the number of its elected judges as there existed no language specifying the number of judges.

Representative Cook asked whether the following language might be utilized on the ballot "Make the transition to City Manager within two years and empowering Council Members to make the appropriate Charter Amendments".

Mr. McNabb responded the law states the exact wording of the Charter Amendment must be in place and published in the Notice to the election office. He utilized the example of the Tax Collector Charter language to emphasize the need for specific language regarding the transition to City Manager.

Representative Power questioned when the Legal Department would be providing the examples of other cities City Manager form of government.

Mr. McNabb explained that he had attended the National City Managers Association meeting and noted that a "model" City Charter for City Managers was available and he would provide Council Members with copies of that. He noted that Ms. Rodriguez would extract pieces from the "model" Charter and present that to Council Members.

Representative Power questioned whether the Charter Amendment proposals should be discussed during a City Council meeting or would it advisable to hold a Legislative Review Committee of the Whole.

Representative Sariñana agreed to hold another Legislative Review Committee of the Whole meeting.

Representative Power suggested holding another Legislative Review Committee of the Whole meeting in December, 2002.

Representative Medina agreed and stated the sooner the better.

.....
Motion made by Representative Sariñana, seconded by Representative Cook and unanimously carried to adjourn this meeting at 11:50 a.m.
.....

APPROVED AS TO CONTENT:



Richarda Duffy Momsen, City Clerk